

Decision 02-05-039 May 16, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of Victor G. Ukap and California Airbus, Inc., for authority to operate as a scheduled passenger stage corporation between points in Chino, City of Industry, El Monte, Los Angeles International Airport and Ontario International Airport and to establish a Zone of Rate Freedom.

Application 01-11-009
(Filed November 9, 2001;
amended January 28, 2002)

O P I N I O N

Summary

This decision grants the application of California Airbus, Inc. (Applicant), a corporation, pursuant to Pub. Util. Code § 1031 et seq., for a certificate of public convenience and necessity to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, and to establish a zone of rate freedom (ZORF) pursuant to Pub. Util. Code § 454.2.

Discussion

The application, as amended, requests authority to operate as a scheduled PSC to transport passengers and their baggage between points and places in: (1) Chino, Chino Hills, Diamond Bar, and City of Industry, on the one hand, and Los Angeles (LAX) and Ontario (ONT), International Airports, on the other hand; (2) Pomona, Covina, and El Monte, on the one hand, and LAX, on the other hand, and (3) El Monte and Covina, on the one hand, and ONT, on the other hand.

Applicant proposes to use eight buses with various seating capacities. The proposed adult one-way fares, as shown in the amended application, range between \$9 (Chino - ONT) and \$19 (Chino/Diamond Bar/City of Industry/Pomona - LAX). Victor Ukap, the principal shareholder of Applicant, will initially invest \$100,000 in the corporation. He will also seek a substantial bank loan using his home as collateral and with anticipated backing of the Small Business Administration.

Applicant also requests authority to establish a ZORF of \$10 above and \$3 below any of the proposed fares shown in the amended application. The minimum fare will be \$5. Applicant will compete with other PSCs, taxicabs, limousines, buses, and automobiles in its service area. This highly competitive environment should result in Applicant pricing its services at a reasonable level. Many other PSCs have been granted ZORFs. Applicant's requested ZORF is generally consistent with the ZORFs held by other carriers.

Notice of filing of the application appeared in the Commission's Daily Calendar on November 14, 2001 and January 30, 2002. Applicant notified the affected airports and governmental entities.

In Resolution ALJ 176-3076 dated November 29, 2001, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3076.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Findings of Fact

1. The amended application requests authority to operate as a scheduled PSC to transport passengers and their baggage between points and places in: (1) Chino, Chino Hills, Diamond Bar, and City of Industry, on the one hand, and LAX and ONT, on the other hand; (2) Pomona, Covina, and El Monte, on the one hand, and LAX, on the other hand, and (3) El Monte and Covina, on the one hand, and ONT, on the other hand.

2. Public convenience and necessity requires the proposed service.

3. Applicant requests authority to establish a ZORF of \$10 above and \$3 below any of the proposed fares shown in Exhibit C, attached to the application. The minimum fare will be \$5.

4. Applicant will compete with PSCs, taxicabs, limousines, buses, and automobiles in its operations. The ZORF is fair and reasonable.

5. No protest to the application has been filed.

6. A public hearing is not necessary.

7. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. Public convenience and necessity has been demonstrated and the application, as amended, should be granted.

2. The request for a ZORF should be granted.

3. Before Applicant changes any fares under the ZORF authorized below, Applicant shall give this Commission at least ten days' notice. The tariff should show between each pair of service points the high and low ends of the ZORF and the then currently effective fare.

4. Since the matter is uncontested, the decision should be effective on the date it is signed.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity (CPCN) is granted to California Airbus, Inc. (Applicant), a corporation, authorizing it to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, to transport persons and their baggage between the points and over the routes set forth in Appendix PSC-14762, subject to the conditions contained in the following paragraphs.

2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. File tariffs on or after the effective date of this order. They shall become effective ten days or more after the effective date of this order, provided that the Commission and the public are given not less than ten days' notice.
- d. Comply with General Orders Series 101, 104, and 158, and the California Highway Patrol (CHP) safety rules.
- e. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- f. Maintain accounting records in conformity with the Uniform System of Accounts.

- g. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so.
- h. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
- i. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.

3. Applicant is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) of \$10 above and \$3 below any of the proposed fares shown in Exhibit C, attached to the application. The minimum fare will be \$5.

4. Applicant shall file a ZORF tariff in accordance with the application on not less than ten days' notice to the Commission and to the public. The ZORF shall expire unless exercised within 120 days after the effective date of this order.

5. Applicant may make changes within the ZORF by filing amended tariffs on not less than ten days' notice to the Commission and to the public. The tariff shall include between each pair of service points the authorized maximum and minimum fares and the fare to be charged.

6. In addition to posting and filing tariffs, Applicant shall post notices explaining fare changes in its terminals and passenger-carrying vehicles. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least 30 days.

7. Applicant is authorized to begin operations on the date that the Rail Safety and Carriers Division mails a notice to Applicant that its evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission and that the CHP has approved the use of Applicant's vehicles for service.

8. Before beginning service to any airport, Applicant shall notify the airport's governing body. Applicant shall not operate into or on airport property unless such operations are authorized by the airport's governing body.

9. The CPCN to operate as PSC-14762 granted herein expires unless exercised within 120 days after the effective date of this order.

10. The Application, as amended, is granted as set forth above.

11. This proceeding is closed.

This order is effective today.

Dated May 16, 2002, at San Francisco, California.

LORETTA M. LYNCH

President

HENRY M. DUQUE

CARL W. WOOD

GEOFFREY F. BROWN

MICHAEL R. PEEVEY

Commissioners

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-14762

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges

All changes and amendments as authorized by
the Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

Issued under authority of Decision 02-05-039, dated May 16, 2002,
of the Public Utilities Commission of the State of California
in Application 01-11-009.

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SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS, AND SPECIFICATIONS.

California Airbus, Inc., a corporation, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to transport passengers and their baggage on a scheduled service, between points and places as described in Section II, and over and along the routes described in Section II, subject however, to the authority of this Commission to change or modify this authority at any time and subject to the following provisions:

- A. When a route description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- B. Scheduled service will be operated only at the communities and cities described in Section II. A description of all the stop points and the arrival and departure times from such points shall be indicated in the timetable filed with the Commission.
- C. No passengers shall be transported except those having a point of origin or destination of ONT or LAX.
- D. This certificate does not authorize the holder to conduct any operation on the property of any airport unless such operation is authorized by the airport authority involved.

SECTION II. ROUTE DESCRIPTIONS.

Route 1 Chino/LAX

Commencing from any point in the City of Chino, then over the most convenient streets, expressways, and highways to Chino Hills, Diamond Bar, City of Industry, then to Los Angeles International Airport (LAX).

Route 2 City of Industry/ONT

Commencing from any point in the City of Industry, then over the most convenient streets, expressways, and highways to Diamond Bar, Chino, Chino Hills, then to Ontario International Airport (ONT).

Route 3 Pomona/LAX

Commencing from any point in the City of Pomona, then over the most convenient streets, expressways, and highways to Covina, El Monte, then to LAX.

Route 4 El Monte/ONT

Commencing from any point in the City of El Monte, then over the most convenient streets, expressways, and highways to Covina, then to ONT.